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SUMMARY RECORD OF THE 39th MEETING

Chairman:	Mr. LAMPTEY	(Ghana)
later:	Mr. MADEJ (Vice-Chairman)	(Poland)

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The meeting was called to order at 11.05 a.m.

AGENDA ITEM 139: REPORT OF THE COMMITTEE ON RELATIONS WITH THE HOST COUNTRY (A/49/26; A/C.6/49/L.15)

1. Mr. SHAMBOS (Cyprus), speaking as Chairman of the Committee on Relations with the Host Country, presented the Committee's report (A/49/26), section III of which dealt with a series of fundamental questions: security of missions and their personnel; host country travel regulations; acceleration of immigration and customs procedures; entry visas issued by the host country; responsibilities of permanent missions to the United Nations and their personnel, in particular the problem of claims of financial indebtedness and procedures to be followed with a view to resolving the issues relating thereto; transport: use of motor vehicles, parking and related matters; rationalization of the work of the Committee; and dental and health insurance services for the United Nations diplomatic community. Section IV of the report contained the Committee's recommendations and conclusions with regard to the principal questions under study.

2. Mr. MARTENS (Germany), speaking on behalf of the European Union and the four acceding States, said that the Committee's report reflected in detail the questions dealt with by the Committee, including such matters as the acceleration of immigration and customs procedures, the financial indebtedness of missions and host country travel regulations.

3. The European Union and the four acceding States welcomed the measures being taken to improve customs and immigration procedures at John F. Kennedy International Airport. The Working Group on Indebtedness had tried to resolve the serious and growing problems arising from the financial indebtedness of certain missions and diplomatic staff members. Moreover, the Working Group had studied the possibility of providing the United Nations diplomatic community with more affordable dental and health care. On the question of transport and the application of traffic laws, the speaker reiterated the importance his delegation attached to respect for articles IV and V of the Headquarters Agreement of 1947 and articles 29 to 31 of the 1961 Vienna Convention on Diplomatic Relations, concerning inviolability and immunity from criminal, civil and administrative jurisdiction in the receiving State. The European Union and the four acceding States expected the host country to take appropriate steps to comply fully with those obligations. The solution of often delicate problems concerning the application of the Headquarters Agreement required full respect for international law. In conclusion, those delegations welcomed the Committee's decision concerning the rationalization of its work and endorsed the recommendations and conclusions set out in paragraph 73 of its report.

4. Mrs. TSONEVA (Bulgaria) said that the Committee on Relations with the Host Country had yet to solve the growing problem of the financial indebtedness of a number of permanent missions and diplomats to banks, landlords and hospitals in the host country. Considering the fact that a substantial part of the debt stemmed from the difficulties of a number of missions in financing medical and

dental costs, the Working Group on Indebtedness, in cooperation with the host country, had organized a seminar to discuss medical and dental insurance for the diplomatic community.

5. With regard to the parking of diplomatic vehicles, she was confident that, as a result of constructive contacts between the parties concerned, the problem would be resolved in a manner acceptable to both the diplomatic community and the New York authorities.

6. Mr. ORDZHONIKIDZE (Russian Federation) said that the Committee on Relations with the Host Country and the host country had been working to create the proper conditions for the States Members of the United Nations, and the Organization itself, to accomplish their tasks.

7. Measures had been taken to accommodate the Committee's recommendations regarding security of missions and their personnel, host country travel regulations, acceleration of immigration and customs procedures and entry visas issued by the host country. One positive accomplishment had been the creation of a special diplomatic lane at John F. Kennedy International Airport.

8. Nevertheless, travel restrictions were still being imposed on members of some missions and their relatives, and on United Nations staff members of certain nationalities. Such restrictions ran counter to the spirit of cooperation that should exist among States, and the authorities of the host country should therefore remove them.

9. Problems of parking and vehicle theft should be resolved through cooperation between the host country and representatives of the Member States. Staff members of missions to the United Nations should, however, continue to enjoy immunity from criminal and civil jurisdiction for traffic infractions committed in the host country. In that respect, it was to be hoped that the host country would continue to fulfil the obligations incumbent upon it under the 1961 Vienna Convention on Diplomatic Relations and the Headquarters Agreement.

10. Mutually acceptable solutions had to be found for the problem of financial indebtedness of the staff members of some missions. Needless to say, diplomats accredited to the United Nations should respect the laws and traditions of the host country.

11. He welcomed the conclusions and recommendations in the Committee's report, and trusted that they would be put into practice in the near future. It would be desirable for the host country, in collaboration with other Member States, to respond fully to the needs of the missions and of the United Nations itself prior to the fiftieth anniversary of the Organization.

12. The Russian Federation looked forward to the adoption of the draft resolution on the report of the Committee on Relations with the Host Country contained in document A/C.6/49/L.15.

13. Ms. WILLSON (United States of America) said that the United States, in its capacity as the Organization's host country, was carrying out all the obligations incumbent upon it in that respect. The discussions of the Committee on Relations with the Host Country allowed the United States to gauge the problems of the diplomatic community and to try to solve them. In that regard, in September 1994 the Committee had organized a seminar on the provision of affordable health and dental care in the New York area. In that same month, the United States Mission to the United Nations had arranged a visit to John F. Kennedy International Airport to permit interested delegations to see for themselves the improvements made by the customs and immigration services with regard to diplomatic arrivals. In all the principal international arrival terminals, specific lanes for holders of "G" visas had been set up.

14. The outstanding debt of the United Nations diplomatic community currently stood at more than $6 million, as opposed to $4 million the previous year. Of that $6 million, 41 per cent was owed to banks and other financial institutions. As a result of the poor payment record of some members of the United Nations diplomatic community, one prominent bank had decided against making any further loans to diplomatic missions or individual diplomats. Another 37 per cent of the total was owed to landlords. Some missions had not paid rent for two or more years and a number of residential landlords had either already lost their property or were at risk of losing it because diplomatic tenants who did not pay their rent could not be evicted. In that regard, he recalled that the residence of a diplomat was inviolable under the Vienna Convention on Diplomatic Relations of 1961. A landlord who had been unable to make mortgage payments on a property which generated no income might lose title to the property even as the diplomat continued in residence. As a consequence, it had become increasingly difficult for diplomats to obtain private leases in New York. Unfortunately, the problem had begun to affect even those United Nations missions and diplomats that met their financial obligations. In that regard, even the credit ratings of the United Nations community as a whole were declining. Since the problem affected not only New York but also Geneva, Vienna and other United Nations host cities, it should be addressed on a system-wide basis. The Committee on Relations with the Host Country had requested the Secretary-General to prepare a report on the problem in time for review by the Committee in spring 1995, setting forth recommendations in that regard.

Draft resolution A/C.6/49/L.15

15. Mr. MOUSHOUTAS (Cyprus) introduced draft resolution A/C.6/49/L.15 and briefly outlined the contents of the preamble and the nine operative paragraphs. In particular, he pointed out that paragraph 4 reflected the importance the Committee on Relations with the Host Country attached to the question of financial indebtedness, which had become a fast-growing problem that was tarnishing the image of the United Nations in the host country.

16. In order to reflect more closely the pertinent provisions of the report of the Committee on Relations with the Host Country (A/49/26, paras. 10 and 70), the last part of paragraph 6 of the draft resolution should read: "as well as the efforts of the Committee to explore the possibilities for the diplomatic

community to be provided with more affordable dental and health services". In conclusion, he expressed the hope that the draft resolution, as orally amended, would have the unanimous support of the Committee.

17. The CHAIRMAN said he took it that the Committee wished to adopt draft resolution A/C.6/49/L.15, as orally amended, without a vote.

18. Draft resolution A/C.6/49/L.15, as orally amended, was adopted without a vote.

19. The CHAIRMAN announced that the Committee had concluded its consideration of agenda item 139.

AGENDA ITEM 134: STATUS OF THE PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 1949 AND RELATING TO THE PROTECTION OF VICTIMS OF ARMED CONFLICTS (continued) (A/C.6/49/L.19)

Draft resolution A/C.6/49/L.19

20. The CHAIRMAN announced that Belgium, Hungary and Spain had become sponsors of the draft resolution.

21. Mr. ODEVALL (Sweden) introduced draft resolution A/C.6/49/L.19 and explained that its text was based on General Assembly resolution 47/30 of 25 November 1992, with the following necessary changes: a new fifth preambular paragraph had been added to reflect the fact that annex I of Additional Protocol I had been revised; a new paragraph 5 had been added to take note of the Declaration adopted on 1 September 1993 at the International Conference for the Protection of War Victims; in addition, paragraph 4 had been slightly amended and paragraphs 6 and 7 had been updated. Finally, he expressed the hope that, as was customary, the Committee would adopt the draft resolution without a vote.

22. Mr. Madej (Poland), Vice-Chairman, took the Chair.

23. The CHAIRMAN said he took it that the Committee wished to adopt draft resolution A/C.6/49/L.19 without a vote.

24. Draft resolution A/C.6/49/L.19 was adopted without a vote.

25. Mr. NATHAN (Israel), speaking in explanation of his delegation's position, said that Israel had participated in the consensus on draft resolution A/C.6/49/L.19 in the same spirit of cooperation in which it had participated in the diplomatic conference which had formulated the two Protocols Additional to the Geneva Conventions. His delegation had consistently expressed the opinion that Additional Protocol I reflected considerable progress in the development of international humanitarian law. In that respect, his delegation wished to acknowledge the valuable contribution of the International Committee of the Red Cross (ICRC), with which the Government and the military and administrative authorities of Israel maintained excellent working relations.

26. As a result of political terminology and transient considerations introduced into various sections of Additional Protocol I, Israel had been precluded from becoming a Party thereto. Rather than establishing objective criteria for defining the scope and application of Additional Protocol I and its general principles, subjective political concepts had been included in article 1, paragraph 4, thereof which could only give rise to a built-in framework of unending claims and counterclaims as to the applicability of the Protocol.

27. Similarly, the relative ease with which any group claiming to fit within the political criteria of article 1, paragraph 4, might consider itself entitled to privileges and status under the Protocol would only serve to facilitate the activities of terrorists at a time when every effort was being made to stamp out that scourge. The attempt to bring non-State elements within the scope of the Protocol had led to internal contradictions in a text based on the existence of organized States as subjects of international law and had undermined the reciprocity of legal rights and obligations necessary for the satisfactory application of international treaties.

28. Moreover, his delegation had already drawn the Committee's attention to the arbitrary and politically motivated discrimination against Israel's humanitarian protective emblem, the Magen David Adom (Red Shield of David) and the National Geneva Convention Relief Society, the Magen David Adom Society. There was no justification whatsoever for the withholding of recognition for that humanitarian emblem and for the deliberate exclusion of his country's relief society from full participation in the International Red Cross.

29. For all those reasons, his delegation, which found the text of document A/C.6/49/L.19 by and large unobjectionable, would have abstained had it been put to a vote.

30. The CHAIRMAN announced that the Committee had concluded its consideration of agenda item 134.

31. Mr. Lamptey (Ghana), Chairman, resumed the Chair.

AGENDA ITEM 135: CONSIDERATION OF EFFECTIVE MEASURES TO ENHANCE THE PROTECTION, SECURITY AND SAFETY OF DIPLOMATIC AND CONSULAR MISSIONS AND REPRESENTATIVES (continued) (A/C.6/49/L.23)

Draft resolution A/C.6/49/L.23

32. The CHAIRMAN announced that Ukraine had joined the sponsors of the draft resolution.

33. Mr. KOURULA (Finland) introduced draft resolution A/C.6/49/L.23, which was sponsored by 19 States. Acts of violence against diplomatic and consular missions and representatives continued to pose a problem to the international community. Such violations were intolerable and seriously disrupted the normal conduct of international relations. The draft resolution was a new sign of the

determination of Member States to condemn those acts and put an end to them. The draft was based on the relevant resolutions which the General Assembly had adopted on that question in earlier years, with slight modifications as warranted by changing circumstances. The sponsors hoped that the draft resolution could be adopted without a vote.

34. The CHAIRMAN said that he would take it that the Committee was prepared to adopt draft resolution A/C.6/49/L.23 without a vote.

35. Draft resolution A/C.6/49/L.23 was adopted without a vote.

36. Ms. FLORES (Mexico) said that her delegation had joined the consensus on draft resolution A/C.6/49/L.23 because it believed that the adoption of measures to enhance the protection and safety of diplomatic and consular missions and representatives was fundamental to the conduct of international relations. Nevertheless, diplomatic and consular privileges and immunities were granted for the purpose of ensuring the effective performance of the staff assigned to foreign service and should not be used for other purposes. Mexico rejected any type of abuse of those privileges and immunities, whether for personal benefit or to organize activities not strictly related to diplomatic or consular functions. Mexico supported the text adopted and wished to clarify that, in its view, paragraphs 6 and 7 should be interpreted to mean that it was the responsibility of the sending State to prevent and punish abuses committed by its diplomatic and consular representatives, in accordance with its national law and applicable international norms.

37. The CHAIRMAN said that the Committee had thus concluded its consideration of agenda item 135.

AGENDA ITEM 140: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/C.6/49/5; A/C.6/49/L.12 and L.18)

Draft resolution A/C.6/49/L.12

38. The CHAIRMAN announced that draft resolution A/C.6/49/L.3 had been withdrawn by its sponsors. At the current meeting, only draft resolution A/C.6/49/L.12 would be considered. Nigeria and Portugal had joined its sponsors.

39. Mr. ORDZHONIKIDZE (Russian Federation) said that in 1994 the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization had reached consensus on the draft resolution under consideration, and had submitted it to the General Assembly for approval. Its importance lay particularly in the fact that, for the first time, the experience of cooperation between the United Nations and regional arrangements and organizations would be expanded and the opportunities under Chapter VIII of the Charter of the United Nations developed. Taking into account current conditions, it established various practical forms of cooperation, such as exchange of information, holding of consultations, participation in the work of

United Nations bodies and provision of personnel and material assistance. The provisions relating to the maintenance of international peace and security were also important, as were the strengthening of regional activities in that sphere, the establishment or improvement of regional mechanisms for the prevention and peaceful settlement of disputes and the establishment and training of groups of military and civilian observers or fact-finding missions.

40. The draft Declaration, which had been formulated in a spirit of compromise between a broad and narrow focus, would help to strengthen the role of the United Nations and represented an important contribution by the Special Committee to the activities of the United Nations Decade of International Law. He was certain that the draft resolution could be adopted by consensus.

41. The CHAIRMAN said that he would take it that the Committee was prepared to adopt draft resolution A/C.6/49/L.12 without a vote.

42. Draft resolution A/C.6/49/L.12 was adopted without a vote.

43. Ms. FLORES (Mexico) said that Mexico reiterated that the cooperation mechanisms intended to improve communication and linkages between the regional organizations and the United Nations should be based on recognition of the full autonomy of both systems and absolute respect for their respective constituting instruments, within the limits established in Chapter VIII of the Charter of the United Nations.

44. Mr. NATHAN (Israel) said that Israel hoped that regional activities and arrangements would be conducted on the basis of equality and universality, in conformity with the provisions and principles of the Charter of the United Nations.

45. Mr. GARCIA (Colombia) said that Colombia had joined the consensus on the understanding that, as provided in paragraph 12 of the Declaration, nothing contained in it was to be construed as prejudicing the provisions of the Charter of the United Nations, or the constituting instruments of the regional organizations. With regard to paragraph 10, he stressed that the fields of competence of regional arrangements or agencies must be respected.

46. Ms. CUETO (Cuba) said that Cuba had joined the consensus on the understanding that all mechanisms intended for the enhancement of cooperation between the United Nations and regional organizations for the maintenance of international peace and security would observe strictly and objectively the letter and spirit of the principles enshrined in the Charter of the United Nations and would also adhere strictly to the principles of sovereignty and self-determination of States.

AGENDA ITEM 142: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued) (A/C.6/49/L.17* and Corr.1 (French only))

Draft resolution A/C.6/49/L.17* and Corr.1 (French only)

47. The CHAIRMAN said that document A/C.6/49/L.17 had been reissued for technical reasons, as an error had been discovered in paragraph 5. The text was the result of intensive informal consultations, and he took it that the Sixth Committee wished to adopt it by consensus.

48. Mr. ODEVALL (Sweden) said that Sweden had decided not to oppose the consensus because it fully supported any measures intended to combat terrorism within the limitations of internationally recognized human rights standards. However, it could not support the view that terrorist acts in themselves constituted a violation of human rights. The distinction between acts of that nature attributed to States and those attributed to persons or groups was very important, because only the first could technically be considered as violations of human rights. Its joining of the consensus did not mean that Sweden had changed its position of principle on that matter.

49. Draft resolution A/C.6/49/L.17* and Corr.1 (French only) was adopted.

50. Mr. NATHAN (Israel) said that his delegation welcomed the Declaration for its unequivocal condemnation of all acts of terrorism as criminal and unjustifiable, whatever the considerations that might be invoked to justify them. It had a reservation, however, in regard to the reference to General Assembly resolution 46/51 in the first preambular paragraph, since that resolution contained matters which were irrelevant to the objectives of the current resolution and Declaration, and which could contradict one of its basic principles, namely, that terrorist acts were criminal and could not be justified.

51. Mr. TAHIM (Pakistan) said that the elimination of terrorism was one of the most serious concerns of the international community. Pakistan strongly condemned all acts of terrorism, whether perpetrated by individuals, groups or States, resulting in violence or the threat of violence against innocent persons, irrespective of the motives. Pakistan had unfailingly supported the anti-terrorism measures adopted by the United Nations, the Organization of the Islamic Conference, the South Asian Association for Regional Cooperation and other international organizations such as the International Civil Aviation Organization.

52. The international community had consistently made a distinction between acts of terrorism and the legitimate struggle of people for self-determination because the colonial and occupying Powers had always sought to justify the suppression of freedom struggles by depicting them as "terrorism". That distinction was reflected in various resolutions adopted by the General Assembly, including resolution 46/51, and it would therefore have been preferable to include a reference to that resolution in the body of the Declaration.

53. Nothing in the resolution could in any way prejudice the right to self-determination, freedom and independence, as derived from the Charter of the United Nations, of peoples under colonial or other forms of alien domination or foreign occupation. That approach, which was reflected, in particular, in General Assembly resolution 46/51, had also been adopted by the Non-Aligned Movement at its summit meeting at Jakarta in September 1992.

54. Mr. ENAYAT (Islamic Republic of Iran) said that it would have been preferable to have had more time and to have acted with greater transparency so as to achieve consensus on all aspects of the Declaration.

55. Miss SHAHEN (Libyan Arab Jamahiriya) said that the Libyan Arab Jamahiriya, which had been constantly subjected to terrorism, condemned all its manifestations. It had also requested that a special session of the General Assembly and an international conference should be held on the question in order to establish a precise definition of international terrorism. That definition was very important in order to be able to make a distinction between international terrorism and the right of self-determination, in particular on the basis of the definition appearing in General Assembly resolution 46/51, which should have been included in the preambular part of the Declaration. It was very easy to condemn a particular country without justification, using a double standard. It was difficult to distinguish between terrorism and the right of legitimate self-defence. The draft resolution should protect the right of all peoples who were still subjected to colonialism or any form of foreign domination to achieve self-determination, continue their legitimate struggle for freedom and receive international support in accordance with the provisions of the United Nations Charter and the relevant resolutions of the General Assembly, in particular resolution 46/51.

56. Mr. ZMEEVSKY (Russian Federation) said that there were two errors in the Russian text of the draft resolution. In the last line of the second preambular paragraph of the Declaration, the word "and" needed to be inserted between the words "civil" and "political". In the last line of paragraph 2 of the Declaration, the word "pluralistic", which did not appear in the other language versions, should be deleted.

57. Mr. GUILLEN (Peru) said that since the end did not justify the means, nothing could justify the perpetration of acts of terrorism. The reference to General Assembly resolution 46/51 was absolutely contrary to Peru's position. Moreover, it was not necessary to have a broad definition of terrorism that had been agreed upon in the past in order to have a clear idea of that elementary question of principles.

58. Mr. RODRIGUEZ (Venezuela) said that his delegation was pleased with the adoption of the Declaration on Measures to Eliminate International Terrorism, which was a significant effort in the promotion of international cooperation to combat terrorism. He wished to reiterate the importance which Venezuela attached to part II of the Declaration, in which States were called upon to fulfil their obligations under the Charter of the United Nations and other provisions of international law with respect to combating international

terrorism and also to refrain from organizing, instigating, facilitating, financing, encouraging or tolerating terrorist activities. States could not be indifferent in the fight against terrorism, or tolerant of criminal acts organized in their territories, especially when they had transboundary effects.

59. The CHAIRMAN said that the Committee had concluded its consideration of item 142.

AGENDA ITEM 144: REQUEST FOR AN ADVISORY OPINION FROM THE INTERNATIONAL COURT OF JUSTICE (continued)

60. The CHAIRMAN suggested that the Committee should adopt the following draft decision: "The General Assembly decides to continue its consideration of the item entitled 'Request for an advisory opinion from the International Court of Justice' at a future session".

61. The draft decision orally introduced by the Chairman was adopted.

62. The CHAIRMAN said that the Committee had concluded its consideration of item 144.

AGENDA ITEM 145: REVIEW OF THE PROCEDURE PROVIDED FOR UNDER ARTICLE 11 OF THE STATUTE OF THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS (continued) (A/C.6/49/L.21)

Draft decision A/C.6/49/L.21

63. Mr. GAWLEY (Ireland), speaking on behalf of the delegations of Australia, Benin, France and his own delegation, introduced draft decision A/C.6/49/L.21 and drew attention to paragraphs (a) and (b). In paragraph (a), the General Assembly was invited to consider at its fiftieth session the deletion of article 11 of the statute. That was because the Secretary-General was currently introducing reforms and it was therefore better to wait to see what effect those reforms had before taking a final decision on the deletion. It had therefore been decided, in paragraph (b), to include the item in the agenda of the fiftieth session of the General Assembly. He hoped that the Committee would adopt the draft decision by consensus.

64. The CHAIRMAN said that it appeared that the Committee was prepared to adopt draft decision A/C.6/49/L.21 without a vote.

65. Draft decision A/C.6/49/L.21 was adopted.

66. The CHAIRMAN said that the Committee had concluded its consideration of item 145.

The meeting rose at 12.45 p.m.